

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

JORGE RIVERA,

Defendant.

17-CR-68-V
ORDER

Defendant Jorge Rivera is charged in a two-count indictment with conspiring to possess 500 grams or more of a mixture and substance containing cocaine with the intent to distribute it and conspiring to distribute that substance, in violation of 21 U.S.C. § 846, and attempting to possess 500 grams or more of a mixture and substance containing cocaine with the intent to distribute it, in violation of 21 U.S.C. § 846. See Docket Item 1.

On June 5, 2017, Rivera moved to suppress his statements made to law enforcement at the time of his June 8, 2016 arrest. See Docket Item 35. After both sides briefed the issue, Magistrate Judge Michael J. Roemer held an evidentiary hearing. At the hearing, Judge Roemer heard testimony from United States Drug Enforcement Special Agents David Leary and Jonathan Sullivan and United States Postal Inspection Service Inspector Jeff Maul. The defendant did not offer any evidence at the hearing. Following the evidentiary hearing, both sides submitted memoranda of law. See Docket Items 54 and 60.

On March 19, 2018, Judge Roemer issued a Report, Recommendation, and Order (“R&R”), recommending the denial of the defendant’s motion to suppress

statements. See Docket Item 63. Judge Roemer found Special Agents Leary and Sullivan and Inspector Maul to be credible witnesses. Specifically, Judge Roemer found that the defendant was advised of his *Miranda* warnings in Spanish at the outset of the interview conducted by Special Agent Sullivan and knowingly waived his rights.

The defendant did not object to Judge Roemer's R&R, and the time to object now has expired. For that reason, the defendant has waived his right to have the R&R reviewed. See Fed. R. Crim. P. 59(b)(2) ("Failure to object in accordance with this rule waives a party's right to review."); see *a/so* Docket Item 63 at 15-16.

Nevertheless, in its discretion, this Court has carefully reviewed Judge Roemer's R&R (Docket Item 63). Based on that review and the absence of any objection, and for the reasons stated in the R&R, this Court adopts the R&R in its entirety. Jorge Rivera's motion to suppress is DENIED.

SO ORDERED.

Dated: May 3, 2018
Buffalo, New York

s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE